REMARKS

35 USC §§112

The Applicant respectfully requests that the Examiner formally withdraw this rejection, as it does not appear that the rejection was addressed or withdrawn in the current Office Action.

35 USC §102

Claims 1, 3, 5-15 and 59 are rejected under 35 USC §102(e) as being unpatentable over Kennedy et al (US 6506497). The Applicant respectfully disagrees, especially based on the amendments presented herein.

Claim 1, as amended, recites:

"An absorbing composition comprising at least one inorganic-based compound, at least one organic-based absorbing compound, and at least one material modification agent, wherein the at least one material modification agent comprises at least one adhesion promoter and[[,]] at least one crosslinking agent, at least one porogen, at least one catalyst, at least one capping agent, at least one pH tuning agent or a combination thereof, wherein the at least one adhesion promoter comprises APTEOS triflate, APTEOS methanesulfonate, APTEOS nitrate, APTEOS nfbs, ammonium triflate, ammonium nfbs, ammonium methanesulfonate, ammonium nitrate, TMAH triflate, TMAH nfbs, TMAH methanesulfonate, TMAA, TMAN, TMAH nitrate or a combination thereof, wherein the at least one adhesion promoter does not initiate crosslinking activity in the composition and wherein the absorbing compound absorbs light over at least an approximately [[0.5]] 10 nm wide wavelength range at wavelengths less than 375 nm and wherein the at least one organic absorbing compound comprises anthraflavic acid, 9-anthracene carboxylic acid, 9-anthracene methanol, alizarin, quinizarin, primuline, 2-hydroxy-4(3-triethoxysilylpropoxy)-diphenylketone, rosolic acid, triethoxysilylpropyl-1,8-naphthalimide, 9-anthracene carboxy-alkyl triethoxysilane, phenyltriethoxysilane, 10-phenanthrene carboxy-methyl triethoxysilane, 4-phenylazophenol, 4-ethoxyphenylazobenzene-4-carboxy-methyl triethoxysilane, 4-methoxyphenylazobenzene-4-carboxy-methyl triethoxysilane or mixtures thereof."

Kennedy does not teach all of the claimed elements of the present application. "Anticipation requires the disclosure in a single prior art reference of each element of the

claim under consideration." *W. L. Gore & Assocs. v. Garlock, Inc.*, 721 F.2d 1540, 220 USPQ 303, 313 (Fed. Cir. 1983) (citing *Soundscriber Corp. v. United States*, 360 F.2d 954, 148 USPQ 298, 301 (Ct. Cl.), *adopted*, 149 USPQ 640 (Ct. Cl. 1966)) Further, the prior art reference must disclose each element of the claimed invention "**arranged as in the claim**". *Lindermann Maschinenfabrik GmbH v. American Hoist & Derrick Co.*, 730 F.2d 1452, 221 USPQ 481, 485 (Fed. Cir. 1984)(citing *Connell v. Sears, Roebuck & Co.*, 722 F.2d 1542, 220 USPQ 193 (Fed. Cir. 1983)). Kennedy does not teach that the at least one adhesion promoter does not initiate crosslinking activity in the composition. This fact is true, because the silanes in Kennedy are not acting as adhesion promoters, but instead are forming the composition. In addition, the silanes in Kennedy are not the same as the ones recited in claim 1. Based on this argument, along with others such as that discussed above, Kennedy does not anticipate claim 1 of the present application because Kennedy is lacking and/or missing at least one specific feature or structural recitation found in the present application, and in claim 1. Claim 1 is therefore allowable as not being anticipated by Kennedy. Further, Kennedy does not anticipate claims 3, 5-15 and 59 (claims 5 and 7-10 canceled) of the present application by virtue of their dependency on claim 1.

35 USC §103

Claims 1, 27, 29-31 and 59 are rejected under 35 USC §103(a) as being unpatentable over Kennedy et al (US 6506497) in view of Thies et al. (US Patent Publication 2009/0029145).

Claims 1, 3, 11-13, 26-28 and 31 are rejected under 35 USC §103(a) as being unpatentable over Putzer (US Patent Publication 2004/0122197) in view of Baldwin et al. (US Patent Publication 2002/0068181).

Claims 1, 3, 7, 11-13, 18, 26, 29-31 and 37 are rejected under 35 USC §103(a) as being unpatentable over Ravichandran et al (US 6677392) in view of Hayashi et al (US Patent Publication 2003/0091838), and further in view of Baldwin et al. (US Patent Publication 2002/0068181).

Claims 1 and 37 are rejected under 35 USC §103(a) as being unpatentable over Kennedy et al (US 6506497) in view of Dammel et al. (US Patent Publication 2004/0166434).

The Applicant respectfully disagrees.

First, the Examiner removes the Putzer reference with respect to one 103(a) reference because "Putzer teaches that adhesion promoters are crosslinking agents". Therefore, the Putzer reference should also be removed as a primary reference, as outlined above. It is not relevant to the instant claims – as it teaches that adhesion promoters are crosslinking agents, and no one of ordinary skill in the art would read this reference and consider it close to the claims that are presented herein.

After discussing this case in full with the inventors, it is clear that the Putzer publication is quite different from the current application, and therefore, claim 1 is herein amended to clarify the difference. The Putzer publication states:

> "This invention relates to a polyorganosiloxane composition, a method of combining the components and **a method of vulcanizing** said polyorganosiloxane composition, the vulcanized composition obtainable thereby, composite materials containing a substrate and said vulcanized composition as well as the use of the polyorganosiloxane composition." (emphasis added)

In addition, paragraphs [0039]-[0046] explicitly disclose that the adhesion promoters are utilized by inducing crosslinking between the components of the composition, wherein the adhesion promoters are crosslinking agents.

The Examiner points to Table 2 to show that aminopropyltriethoxysilane is used in the Putzer reference, but the Examiner is completely missing the fact that in Table 3, the aminopropyltriethoxysilane is shown as failing the adhesion tests, as compared to the inventive composition A, and therefore, Putzer would absolutely teach against adding aminopropyltriethoxysilane as an adhesion promoter for those types of vulcanized compounds and compositions.

In addition, the compositions disclosed in Putzer are transparent and do not contain absorbing compounds. Please note in Column 3 of the issued patent (US 7211330) that Putzer says: "The compositions made available by the present invention should therefore be transparent, odorless polyorganosiloxane compositions, which are neutral, room temperature vulcanizing compositions, in particular in the case of catalyst systems containing tin."

Based on the previous two paragraphs – there is absolutely nothing in Putzer that would teach, suggest or motivate one of ordinary skill in the art to use this reference to combine with the Baldwin reference to produce the current claims and present application. The Examiner must show a motivation or reason to combine – and that motivation or reason is just not present. And, as a matter of fact, Putzer teaches against many of the inventive concepts in the current application.

Claim 1 is amended herein to include the provision "wherein the at least one adhesion promoter does not initiate crosslinking activity in the composition". This provision is supported and described in full on page 20 of the current application:

> "In some contemplated embodiments, the at least one adhesion promoter comprises at least one of the following characteristics: a) is thermally stable after heat treatment, such as baking, at temperatures generally used for electronic and semiconductor component manufacture (see Example 2 and **Figures 2-5**); b) has a relatively low catalytic ability, in that the donor does not initiate significant crosslinking activity in the composition to which it is added; c) is relatively neutral, so that the composition retains a low pH; d) is acidic, in order to lower the pH of the composition; e) does not initiate or propagate reactions that increase the molecular weight of species in the composition to which it is added; f) can surprisingly act as an adhesion promoter by promoting electrostatic and coulombic interactions between layers of materials, as opposed to conventionally understood Van derWaals interactions."

The chemistry in the current application is completely different from the chemistry in the Putzer application, specifically the chemistry of the current application is driven by the bases and the amines are both soluble and minimally reactive (certainly not crosslinking). The Putzer chemistry is the opposite, wherein it specifically discloses significant (and desired) crosslinking and is driven by acid chemistry.

Therefore, Putzer cannot possibly anticipate claim 1 of the current application. In addition, Putzer in combination with Baldwin does not cure the obvious deficiency of these references in comparison with amended claim 1. Therefore, claim 1 is both novel and patentable over Putzer alone or in combination with Baldwin.

With respect to the remaining rejections, claim 1 as amended recites:

"An absorbing composition comprising at least one inorganic-based compound, at least one organic-based absorbing compound, and at least one material modification agent, wherein the at least one material modification agent comprises at least one adhesion promoter and[[,]] at least one crosslinking agent, at least one porogen, at least one catalyst, at least one capping agent, at least one pH tuning agent or a combination thereof, wherein the at least one adhesion promoter comprises APTEOS triflate, APTEOS methanesulfonate, APTEOS nitrate, APTEOS nfbs, ammonium triflate, ammonium nfbs, ammonium methanesulfonate, ammonium nitrate, TMAH triflate, TMAH nfbs, TMAH methanesulfonate, TMAA, TMAN, TMAH nitrate or a combination thereof, wherein the at least one adhesion promoter does not initiate crosslinking activity in the composition and wherein the absorbing compound absorbs light over at least an approximately [[0.5]] 10 nm wide wavelength range at wavelengths less than 375 nm and wherein the at least one organic absorbing compound comprises anthraflavic acid, 9-anthracene carboxylic acid, 9-anthracene methanol, alizarin, quinizarin, primuline, 2-hydroxy-4(3-triethoxysilylpropoxy)-diphenylketone, rosolic acid, triethoxysilylpropyl-1,8-naphthalimide, 9-anthracene carboxy-alkyl triethoxysilane, phenyltriethoxysilane, 10-phenanthrene carboxy-methyl triethoxysilane, 4-phenylazophenol, 4-ethoxyphenylazobenzene-4-carboxy-methyl triethoxysilane, 4-methoxyphenylazobenzene-4-carboxy-methyl triethoxysilane or mixtures thereof."

Please note that the at least one material modification agent requires at least one adhesion promoter and at least one crosslinking agent, at least one porogen, at least one catalyst, at least one capping agent, at least one pH tuning agent or a combination thereof. In addition, claim 10 is canceled and incorporated into claim 1. Claim 10 is not cited in any of the 103(a) rejections, and none of the cited references – alone or in combination teach the following:

- the at least one material modification agent requires at least one adhesion promoter and at least one crosslinking agent, at least one porogen, at least one catalyst, at least one capping agent, at least one pH tuning agent or a combination thereof;

- the at least one organic absorbing compound comprises anthraflavic acid, 9-anthracene carboxylic acid, 9-anthracene methanol, alizarin, quinizarin, primuline, 2-hydroxy-4(3-triethoxysilylpropoxy)-diphenylketone, rosolic acid, triethoxysilylpropyl-1,8-naphthalimide, 9-anthracene carboxy-alkyl triethoxysilane, phenyltriethoxysilane, 10-phenanthrene carboxy-methyl triethoxysilane, 4-phenylazophenol, 4-ethoxyphenylazobenzene-4-carboxy-methyl triethoxysilane, 4-methoxyphenylazobenzene-4-carboxy-methyl triethoxysilane or mixtures thereof;

- the at least one adhesion promoter does not initiate crosslinking activity in the composition;

- the at least one adhesion promoter comprises APTEOS triflate, APTEOS methanesulfonate, APTEOS nitrate, APTEOS nfbs, ammonium triflate, ammonium nfbs, ammonium methanesulfonate, ammonium nitrate, TMAH triflate, TMAH nfbs, TMAH methanesulfonate, TMAA, TMAN, TMAH nitrate or a combination thereof.

It is clear that none of these references teach alone or in combination with one another the provisions of claim 1 to anyone of ordinary skill in the art. Therefore, claim 1 is allowable over all of the cited references. In addition, claims 3, 6, 11-15, 18, 26-31, 37 and 59 are allowable as patentable over all of the cited references, by virtue of their dependence on claim 1.

REQUEST FOR AN INTERVIEW

A Request for Interview form is attached herein. The Applicant explicitly requests an interview with the Examiner if this application is not put in condition for allowance.

REQUEST FOR ALLOWANCE

Claims 1, 3, 6, 11-15, 18, 26-31, 37 and 59 are pending in this application. The applicants request allowance of all pending claims.

Respectfully submitted,
Buchalter Nemer, A Professional Corp.

Dated: June 7, 2010

By: 

Sandra P. Thompson, PhD, Esq.
Reg. No. 46,264
E-mail: sthompson@buchalter.com
Direct Line: 949-224-6282

ATTORNEYS FOR APPLICANT(S):

Buchalter Nemer, A Professional Corporation
18400 Von Karman Ave., Suite 800
Irvine, CA 92612
Fax: 949-224-6203